

FINAL



**WEARE BOARD OF SELECTMEN
MEETING MINUTES
January 26, 2009**

PRESENT: Thomas Clow, Chairman; Wendy Clark, Vice Chairman; Heleen Kurk, Selectman; Richard Butt, Selectman; Keith Lacasse, Selectman

RECORDING SECRETARY: Thomas Clow

GUESTS: Frank Campana, Brenda Lashway, Jan Snyder

Chairman Clow called the meeting to order at 7:05 p.m. He stated that since this was not a regular meeting of the board, there was no public comment on the agenda. However, he recognized that Brenda Lashway was present and had been on the Finance Committee. He invited her to comment if she wished. Ms. Lashway informed the board that there was no longer a Finance Committee.

Selectman Butt asked Ms. Lashway about the school operating budgets and how they compared with the town's budget as far as percentage of increase. He said that the town's proposed budget showed about a 5% increase over 2008 and the default was only about a 2.5% increase. He also asked how the Finance Committee members who had attended Board of Selectmen's meetings felt about the town budget. She said everyone she had talked to thought the town budget was reasonable.

Selectmen Butt then asked how the committee had felt about the Fire Department articles. Ms. Lashway said they generally supported the article for a full time Fire Chief but had questions about the fire truck.

MANIFEST: Chairman Clow moved, seconded by Selectman Kurk, to authorize the Board of Selectmen to sign manifests and order the Deputy Treasurer to sign checks dated January 29, 2009, in the following amounts:

Accounts Payable:	\$	68,363.46
Gross Payroll	\$	49,701.29
Total	\$	118,064.75

Selectman Butt expressed concern about the overtime in the Police Department already being high. Selectman Kurk agreed and said she had been keeping a record of the overtime. The board agreed that there was reason for concern. Selectman Butt said he feels the board needs to get a

FINAL

letter out to all department head and committee chairs saying the board will require line item accountability. Chairman Clow will draft a letter for review at the next meeting.

Further discussion on the manifest questioned why gasoline had been purchased at gas station on several occasions rather than filling up at the Highway Department. There was also a question of charging 16 hours of a Highway Department employee's time to the Transfer Station. The board thought he only worked there for one 10-hour shift.

Chairman Clow called for a vote on the manifest. Passed 4-0. Selectman Lacasse abstained.

WARRANT: Selectmen reviewed and signed the 2009 Town Warrant for posting before midnight.

MAILER: Selectman Butt presented the board with a draft of the Town Mailer which he had been working on with Merry Rice. The new format had the explanation for each article printed directly under the article on the same page. This simplified the layout so there was no need to line sections up on separate pages. Selectman Butt felt it might be possible to print the mailer in house with this format. The board approved of the format. No decision was made on where it would be printed.

DELIBERATIVE SESSION ASSIGNMENTS: The board discussed who would speak to each article on the warrant at the Deliberative Session on January 31. Assignments were as follows: Article #9 – Lacasse, #10 – Clow, #11 – Butt, #12 – Clow/Knapp, #13 – Clow, #14 – Lacasse/Knapp, #15 – Kurk, #16 – Don Burke, #17 – Clow/ Bill Tiffany, #18 – Tiffany, #19 – Kurk, #20 – Clark, #21 – Kurk/Evelyn Connor, #22 – Butt/Cable Committee, #23 – Lacasse, #24 – Kurk, #25 – Clark.

BROADCASTING OF DELIBERATIVE SESSION: Selectman Kurk had questions about the broadcast of the deliberative session at the new location in the Middle School. She said she understood it would be broadcasted on Channel 6 and would be recorded back in the studio for future showings. She would ask Paul Hague if this was correct.

VACUUM CLEANER: The board agreed to the purchase of two new vacuum cleaners – a light duty cleaner for the Town Hall and a heavier duty model for the Town Office Building. Presently the custodian is using his own machine. Total cost for the two in the area of \$500.00 with the money coming from the maintenance line in the Town Office Building account.

REVIEW OF MATERIALS: Selectman Clark reviewed folder from the Town Administrators office seeking direction from the board. The board advised to forward to designated personnel for filing.

OPINIONS ON DEFAULT BUDGET: Selectman Butt said he had talked to Kimberly Hall at LGC concerning the building of a default budget. She had informed him that some towns went by units and some built the budget by comparing dollar amounts. Those using units build a need into the default budget. Selectman Kurk then read an opinion she had received from Paul Sanderson, a staff attorney at LGC. The text of this letter is as follows:

FINAL

Helene Kurk

March 9, 2009

Board of Selectmen

Town of Weare

Dear Helene,

This letter will follow up our telephone conversation regarding computation of the default budget in an SB2 town, such as Weare. The statute in question is this:

IX. (a) "Operating budget" as used in this subdivision means "budget," as defined in RSA 32:3, III, exclusive of "special warrant articles," as defined in RSA 32:3, VI, and exclusive of other appropriations voted separately.

(b) "Default budget" as used in this subdivision means the amount of the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, and reduced by one-time expenditures contained in the operating budget. For the purposes of this paragraph, one-time expenditures shall be appropriations not likely to recur in the succeeding budget, as determined by the governing body, unless the provisions of RSA 40:13-b are adopted, of the local political subdivision.

X. If no operating budget article is adopted, the local political subdivision either shall be deemed to have approved the default budget or the governing body may hold a special meeting pursuant to paragraph XVI to take up the issue of a revised operating budget only; provided that RSA 31:5 and RSA 197:3 shall not apply to such a special meeting. If no operating budget article is adopted the estimated revenues shall nevertheless be deemed to have been approved.

XI. (a) The default budget shall be disclosed at the first budget hearing held pursuant to RSA 32:5 or RSA 197:6. The governing body, unless the provisions of RSA 40:14-b are adopted, shall complete a default budget form created by the department of revenue administration to demonstrate how the default budget amount was calculated. The form and associated calculations shall, at a minimum, include the following:

- (1) Appropriations contained in the previous year's operating budget;
- (2) Reductions and increases to the previous year's operating budget; and
- (3) One-time expenditures as defined under subparagraph 1X (b).

(b) This amount shall not be amended by the legislative body. However, this amount may be adjusted by the governing body, unless the provisions of RSA 40:14-b are adopted, acting on relevant new information at any time before the ballots are printed, provided the governing body, unless the provisions of RSA 40:14-b are adopted, completes an amended default budget form.

(c) The wording of the second session ballot question concerning the operating budget shall be as follows:

FINAL

“Shall the (local political subdivision) raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$ _____? Should this article be defeated, the default budget shall be \$ _____, which is the same as last year, with certain adjustments required by previous action of the (local political subdivision) or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only.”

The guidance from the Department of Revenue Administration on how to calculate the default budget is contained on their form, MS-DT-7, which describes the normal chart of accounts, and then requires the preparer to fill in a portion of the spreadsheet to explain why certain accounts were increased and why other accounts were decreased.

Please use the box below to explain increases or reductions in columns 4 & 5.

Acct #	Explanation for Increases	Acct #	Explanation for Reductions

Therefore, neither the statute nor the forms from the department of revenue administration provides specific guidance on how the governing body should implement the meaning of the words, “...the amount of the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law...” contained in the statutory definition of “default budget”. One could argue that the only measure of “same appropriations” is in dollars. One could also argue that since an “appropriation” is defined by RSA 32:3, II as “...an amount of money appropriated for a specified purpose by the legislative body.”, that the word “purpose” means a unit of service to be delivered by the public body.

Governing bodies are left with some amount of discretion in the creation of the default budget. One reading of the words suggests that the governing bodies should perform a purely mathematical calculation, and only include a continuation of dollar figures previously appropriated for approved purposes within this default budget calculation. Another plausible reading of the words suggests that the voters have previously approved appropriations to deliver units of service at known or predictable costs. For example, if the voters approved street lighting in a known set of locations, one could argue that the default budget should include the same number of street lighting locations, with the budget figure adjusted to reflect any changes in the cost of electricity required to accomplish the purpose. That is, the default budget might include a number required to accomplish the exact same number of units of service delivery which the voters have previously approved by appropriation to that purpose.

FINAL

Since both methods have their problems, and there is no firm guidance on the issue based in statute or administrative rule, the only advice we can give to governing bodies is to fill out the required form and show the method of calculation for each change up or down in any purpose of appropriation. There are other areas left to discretion. For example, the determination of what is a "one time expenditure" is expressly left to the governing body, and the standard employed is "not likely to recur". Certainly there could be disputes over how this standard might be used with different line items. In the end, the meaning of the terms for your proposed budget must be determined by a majority of your governing body, with the only suggestion being that the board show clearly on the required forms how the numbers were calculated in fact.

Sincerely,



Paul G. Sanderson
Staff Attorney

NONPUBLIC SESSIONS:

Selectman Clow moved, seconded by Selectman Butt, to go into nonpublic session at 9:30 p.m. under RSA 91-A:3II (a&c). A roll call vote was taken: Butt – yes, Clark – yes, Clow – yes, Kurk- yes, Lacasse – yes.

Selectman Clow moved, seconded by Selectman Lacasse, to come out of nonpublic session at 9:40 p.m. A roll call vote was taken: Butt – yes, Clark – yes, Clow – yes, Kurk – yes, Lacasse – yes.

Selectman Kurk moved to seal and restrict. Seconded by Selectman Lacasse. Passed 5-0.

Selectman Clow moved, seconded by Selectman Butt, to go into nonpublic session at 9:42 p.m. under RSA 91-A:3II (a&c). A roll call vote was taken Butt – yes, Clark – yes, Clow – yes, Kurk – yes, Lacasse – yes.

Selectman Clow moved, seconded by Selectman Lacasse to come out of nonpublic session at 9:55 p.m. A roll call vote was taken: Butt – yes, Clark – yes, Clow – yes, Kurk – yes, Lacasse – yes.

Selectman Clark moved to seal and restrict. Seconded by Selectman Kurk. Passed 5-0.

Selectman Butt moved, seconded by Selectman Lacasse, to go into nonpublic session at 9:56 p.m. under RSA 91-A:3II c. A roll call vote was taken: Butt – yes, Clark – yes, Clow – yes, Kurk – yes, Lacasse – yes.

FINAL

Selectman Clow moved, seconded by Selectman Lacasse, to come out of nonpublic session at 10:05 p.m. A roll call vote was taken: Butt – yes, Clark – yes, Clow – yes, Kurk – yes, Lacasse – yes.

Selectman Clow moved to seal and restrict. Seconded by Selectman Lacasse. Passed 5-0.

Meeting adjourned at 10:10 p.m.

A True Record

Thomas S. Clow, Recording Secretary